

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
-
RAFAEL RODRIGUEZ,

Plaintiff,

-against-

**STIPULATION AND ORDER
OF SETTLEMENT AND
DISCONTINUANCE**

04-CV-7405 (KMW)(GWG)

THE CITY OF NEW YORK, P.O. MICHAEL SEILING,
P.O. JOSEPH LEMOS, SGT. EMILE ROVENCHER and
P.O.s "JOHN DOE" #1-5 (said names being fictitious, as
the true names are presently unknown), Individually and
in their Official Capacities..

Defendants.
----- x
-

WHEREAS, plaintiff Rafeal Rodriguez commenced this action by filing a
complaint in or about September 17, 2004 alleging that certain of his federal and state rights
were violated; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's
allegations; and

WHEREAS, plaintiff and defendants now desire to resolve the issues raised in
this litigation, without further proceedings and without admitting any fault or liability;

WHEREAS, no party herein is an infant or incompetent for whom a committee
has been appointed; and

WHEREAS, plaintiff Rafeal Rodriguez has authorized counsel to settle this
matter as against defendants on the terms enumerated below:

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed as against defendants, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff the sum of TWENTY THOUSAND DOLLARS (\$20,000) in full satisfaction of all claims against defendants, including claims for costs, expenses and attorney fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against the defendants and to release all defendants, including the defendants named herein as "New York City Police Officers 'John Doe #1-5,'" any present or former employees or agents of the New York City Police Department and the City of New York from any and all liability, claims, or rights of action arising from and contained in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff Rafeal Rodriguez shall execute and deliver to the City attorney all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraph "2" above and an Affidavit of No Liens.

4. Other than as set forth in paragraph "2" above, plaintiff and his counsel, or any party in privity with either of them, shall have no recovery for any damages, injury, equitable or other relief, or fees or costs in connection therewith.

5. Nothing contained herein shall be deemed to be an admission by defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws

of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

6 Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York.

7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.


Dated: New York, New York
January 14, 2005

The Clerk of Court is directed to close this case. Any pending motions are moot.

Mr. Christopher Galiardo, Esq.
Attorney for Plaintiff
122 East 42nd St., Suite 2710
New York, NY 10013
212-986-5900


MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street, Room 3-209
New York, New York 10007
(212) 676-1347


By: CHRISTOPHER GALIARDO, ESQ. (7285)


By: BROOKE BIRNBAUM (BB 8338)
Assistant Corporation Counsel

SO ORDERED:

1-20-05



U.S.D.J.

KIMBA M. WOOD
New York, New York